

Remarks/Arguments

In response to the Office Action mailed May 14, 2004, Applicants respectfully request that the Examiner reconsider the rejection of the application's Claim 1.

Applicants have exhaustively analyzed and considered the above-dated Office Action and most specifically, the Examiner's claim rejection based upon 35 U.S.C. 103(a) as indicated in point 3.1 of the above-dated action referencing *Mock Trial Online* (hereinafter Mock Trial), in view of a publication from E-Share Technologies entitled *eShareExpressions-Chat Features* (hereinafter eShare), and in further view of second printed publication from First Court Incorporated entitled *Street Smart Jury Evaluations* (hereinafter Street Smart). Having thoroughly reviewed the documentation as provided by the Examiner, Applicants, in view of the now extensively modified claim set and the following discussion, respectfully disagrees with the Examiner's findings and offers the following discussion in support thereof.

The present invention is not simply a means of conducting a mock trial online and supporting interactions between jurors and observers via an online "chat" capability. Rather, the instant invention enhances the art of jury science by utilizing the internet to apply a multi-instant invention methodology to comprehend legal issues, and the judicial process consideration of those issues. In so doing, the instant invention applies jury science to the internet for the first time. (Reference: Technical Field of the Invention in present application). The present invention integrates the fundamental concept of a mock trial with behavioral science within the confines of justice systems procedures to understand the decisions reached by judges and juries. That is, understanding how and why the triers of fact arrive at the conclusions they do, and to allow quantification of the impact a client's position may have on the conclusions that are ultimately derived. Reference: Background of the Invention, page 3, lines 22 – page 4, line 7.

Observing parties as clearly disclosed and claimed in the instant invention are selected from a group of parties consisting of scientists, judges and lawyers. The present invention further provides that a jury scientist may "whisper" to virtual jurors in the jury room in order to conduct research as deliberations are occurring. Voting by virtual jurors can be facilitated by the

instant invention in either anonymous or open mode so that other jurors can be made aware of one another(s) vote. Succinctly stated, Applicants' review of the art provided by the Examiner fails to enable disclose or even discuss the means by which jury evaluation conducted under the auspices of the selected group of individuals may be facilitated. Further, the instant invention, for the first time, allows a trial or jury scientist to forecast jury verdicts for clients by evaluating virtual juror voting patterns and using methods within the art of jury science to develop probabilities associated with each cause of action to forecast damages. In criminal cases the present invention can be used to provide a predictive result as to the guilt or innocence of an accused party and the possible sentencing imposed allowing for better plea bargaining to occur.

Reference: Application pages 10, 11 and 12.

The instant invention's processes are facilitated via the internet or other computer compatible communications network. Free from geographic locale restriction, the jury scientist practicing the instant invention may choose from among thousands or tens of thousands of jury applicants to participate in the virtual mock trial. Thus allowing the jury scientist to construct a juror pool based on various behavioral patterns exhibited in the chosen forum rather than just based on physical location. Reference: instant application page 19, lines 17 - 25.

A number of processes occur in the invention's main observation room and are thoroughly discussed in association with Figures 3 and 4 where it is shown the methodology employed in flow chart form for observation room 140 and jury room 190. Succinctly stated, these processes include a number of novel concepts with respect to application of online jury science such as one-way mirror observation and whispering being pairs of jurors as well as evaluation of messages or statements from any juror or from the scientist to the jurors.

Applicants respectfully disagree with the Examiner's rejection of the aforementioned claim under 35 U.S.C. § 103(a). Specifically, the combination of references, taken together, does not disclose the limitations of claim 1. Moreover, there is no teaching, suggestion, or disclosure that would support the combination of the Mock Trial, eShare and Street Smart references in the manner suggested by the Examiner. Absent some suggestion or motivation supporting the combination of references, the references may not properly be combined. The mere fact that

references can be combined or modified does not render the resulting combination obvious unless the prior art suggests the desirability of the combination. M.P.E.P. § 2143.01 (Emphasis in original). Further, it is necessary for the Examiner to set forth evidence that one of ordinary skill in the art would have been led to combine the teaching of the applied references. Accordingly, Applicants respectfully submit that revised claim 1 and new claims 2 and 3 are allowable over the art of record.

No new matter has been added. Applicants respectfully submit that the claims as they now stand are patentably distinct over the art cited during the prosecution thereof.

With the addition of no new claims, no additional filing fees are due. However, the Director is hereby authorized to charge any fees or credit any overpayment to Deposit Account Number 23-2426.

If the Examiner has any questions or comments concerning this paper or the present application in general, the Examiner is invited to call the undersigned.

Respectfully submitted,
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